

Minutes Formal City Council Meeting October 30, 2003

Minutes of the Formal City Council Meeting of Thursday, October 30, 2003, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Neil G. Giuliano
Vice Mayor Barbara J. Carter
Councilmember P. Ben Arredondo
Councilmember Dennis Cahill
Councilmember Leonard Copple
Councilmember Pamela L. Goronkin
Councilmember Mark Mitchell

Mayor Giuliano called the meeting to order at 7:30 p.m.

1. Councilmember Copple gave the invocation.
2. Mayor Giuliano led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

Motion by Councilmember Cahill to approve the following **COUNCIL MEETING MINUTES**.
Second by Councilmember Mitchell. Motion passed unanimously on a voice vote

1. City Council Executive Session – October 16, 2003
2. Formal City Council Meeting – September 25, October 2 & 16, 2003
[20031030clrkck02.htm](#) [20031030clrkck03.htm](#) [20031030clrkck05.htm](#)
3. City Council Issue Review Session – October 2, 2003 [20031030clrkck04.htm](#)
4. Rio Salado Committee of the Whole – October 7, 2003 [20031030clrkck01.htm](#)
5. Council Tourism & Economic Development Committee – October 14, 2003
[20031030ted01.htm](#)
6. Council Transit/Light Rail & Development Services Committee – October 13, 2003
[20031030tlrds01.htm](#)

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Cahill to accept the following **COMMITTEE & BOARD MEETING MINUTES**. Second by Councilmember Goronkin. Motion passed unanimously on a voice vote.

7. Aviation Commission – September 9, 2003 [20031030tavco01.htm](#)
8. Bicycle Advisory Committee – August 7 & September 4, 2003
[20031030bac01.htm](#) [20031030bac02.htm](#)
9. Commission on Disability Concerns – September 16, 2003 [20031030cdc01.htm](#)
10. Community Special Events Task Force – September 30, 2003
[20031030csetf01.htm](#)
11. Hearing Officer – October 7 & 21, 2003 [20031030ho01.htm](#)
[20031030ho02.htm](#)
12. Mayor's Committee on Prevention & Community Resources – September 15, 2003
[20031030mcpcr01.htm](#)
13. Mayor's Youth Advisory Commission – October 7, 2003 [20031030myac01.htm](#)
14. Municipal Arts Commission – September 10, 2003 [20031030mac01.pdf](#)
15. Parks & Recreation Board – September 9, 2003 [20031030csmr01.htm](#)
16. Public Art/Art in Private Development Subcommittee – September 30, 2003
[20031030paapd.pdf](#)
17. Tempe Employees Council – October 2, 2003 [20031030tec.pdf](#)
18. Tempe Police Public Safety Personnel Retirement Board – September 4, 2003
[20031030clrkck01.pdf](#)
19. Tempe Police Public Safety Personnel Retirement Board Executive Session –
September 4, 2003

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- DELETED
- Mayor Giuliano thanked the four Tempe firefighters now in California fighting the brush fires and wished them safety in their efforts.
- Tempe Sister Cities Recognition – State Senator Harry Mitchell explained a recent Sister City program that raised funds to buy 240 wheelchairs for patients in our Sister City of Skopje, Macedonia. A Sister City delegation recently delivered the wheelchairs to Skopje. Senator Mitchell presented Mayor Giuliano with a plaque and certificates from the Skopje City Council thanking Tempe Sister Cities for this humanitarian effort. Delegation member Gail Fisher presented a slide show about the trip.

B. Manager's Announcements – None.

5. CONSENT AGENDA

All items in these minutes identified with an asterisk (*) are **public hearing items**. The consent agenda is approved with one council action. Items scheduled for a first hearing will be heard but not adopted at this meeting. Items removed from the consent agenda for a separate vote are noted in the minutes.

Mayor Giuliano announced consideration of the **CONSENT AGENDA**.

Motion by Councilmember Arredondo for approval of the Consent Agenda as amended (Item #39 was removed for separate consideration). Second by Councilmember Cahill. Motion passed on a roll call vote, 7-0.

A. Miscellaneous

20. Approved an Executive Session for the City Council meetings of November 6, 2003, if needed, in the Harry E. Mitchell Government Center, Municipal Building, 3rd Floor Conference Room, 31 E. 5th Street.
COMMENTS: Agenda for Executive Session will be posted at least 24 hours prior to such meeting.
21. Approved the Report of Claims Paid to be Filed for Audit for the weeks of October 4, 11 & 18, 2003.
COMMENTS: A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.
- *22. Held a public hearing and approved a Series 6 Bar Liquor License for the Trailer Park Restaurant Inc., dba Dos Gringos Trailer Park Restaurant (71695), 1001 E. 8th Street.
COMMENTS: Brian Roehrich, Agent
DOCUMENT NAME: [20031030LIQ1.htm](#) LIQ LIC (0210-02)
- *23. Held a public hearing and approved a Tele-track Wagering Facility Permit for Derby Grill & Pub, 6463 S. Rural Road.
COMMENTS: David Johnson, Applicant
DOCUMENT NAME: [20031030STAX01.pdf](#) OFF-TRACK WAGERING PERMIT (0210-02)
24. Approved a 180-day extension of the exclusive negotiations with College Avenue Advisors, L.L.C., in response to the Armory Request for Proposals #03-072 for a site located at the southeast corner of 5th Street and College Avenue in Downtown Tempe.
DOCUMENT NAME: [20031030dsdnc02.htm](#) COMM DEV/REDEVELOPMENT ADM (0403-01)
25. Approved a 30-day extension of the exclusive negotiation period with College Block LLC for the Block 12 RFP in Downtown.
DOCUMENT NAME: [20031030dsdnc03.htm](#) ASU/LDS BLOCK AT 6th & COLLEGE (0403-02-14)
26. Approved an Amended Final Subdivision Plat by Kaiser Tile, located at 655 West Elliot Road, with the following conditions:

1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
- b. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains
 - (4) Roadway improvements including streetlights, curb, gutter, bike path, sidewalk, bus shelter, and related amenities.
- c. Fees to be paid with the development of this project include:
 - (1) Water and sewer development fees
 - (2) Water and/or sewer participation charges
 - (3) Inspection and testing fees
- d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
2. a. All street dedications shall be made within six (6) months of Council approval.
- b. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
- c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
3. No variances may be created by future property lines without the prior approval of the City of Tempe.
4. The Amended Final Subdivision Plat shall be recorded prior to the issuance of permits.
5. The Amended Final Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before October 30, 2004**. Failure to record the plan within one year of Council approval shall make the plan null and void.

COMMENTS: (Chamberlain Development, Ed Frost, property owner) #SBD-2003.89 consisting of two (2) lots on 7.15 net acres.

DOCUMENT NAME: 20031030dsd2k04.htm **PLANNED DEVELOPMENT (0406)**

27. Approved an Amended Final Subdivision Plat by Tempe Honda, located at 8010 South Autoplex Loop, with the following conditions:
 1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.

- b. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains
 - (4) Roadway improvements including streetlights, curb, gutter, bike path, sidewalk, bus shelter, and related amenities.
 - c. Fees to be paid with the development of this project include:
 - (4) Water and sewer development fees
 - (5) Water and/or sewer participation charges
 - (6) Inspection and testing fees
 - d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
- 2. a. All street dedications shall be made within six (6) months of Council approval.
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 - c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
- 3. No variances may be created by future property lines without the prior approval of the City of Tempe.
 - 4. The Amended Final Subdivision Plat shall be recorded prior to the issuance of permits.
 - 5. The Amended Final Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before October 30, 2004**. Failure to record the plan within one year of Council approval shall make the plan null and void.

COMMENTS: (United Auto Group, Inc., Dave Wallace, property owner) #SBD-2003.88 consisting of one (1) lot on 8.69 net acres.,

DOCUMENT NAME: [20031030dsd2k05.htm](#) **PLANNED DEVELOPMENT (0406)**

- 28. Approved an Amended Final Subdivision Plat by Wells Fargo, located at 1116 West Washington Street, with the following conditions:
 - 1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
 - b. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains

- (4) Roadway improvements including streetlights, curb, gutter, bike path, sidewalk, bus shelter, and related amenities.
- c. Fees to be paid with the development of this project include:
 - (1) Water and sewer development fees
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 - (3) Inspection and testing fees
- d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
- 2. a. All street dedications shall be made within six (6) months of Council approval.
- b. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
- c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
- 3. No variances may be created by future property lines without the prior approval of the City of Tempe.
- 4. The Amended Final Subdivision Plat shall be recorded prior to the issuance of permits.
- 5. The Amended Final Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before October 30, 2004**. Failure to record the plan within one year of Council approval shall make the plan null and void.

COMMENTS: (Sunstate Development, Steve Brown, lessor, Salt River Project, property owner) #SBD-2003.89 consisting of four (4) lots on 30.42 net acres.

DOCUMENT NAME: [20031030dsd2k06.htm](#) **PLANNED DEVELOPMENT (0406)**

29. Approved **Contract #2003-114B**, an increase in the contract amount with Archon, Inc., for the 13th Street Bicycle and Pedestrian Improvements project.

DOCUMENT NAME: [20031030PWMG07.htm](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 2001-6000401**

- 29a. Approved **Contract #2000-63C**, a Third Addendum to the Hayden Ferry Lakeside, LLC Development and Disposition Agreement that amends the Schedule of Performance.

DOCUMENT NAME: [20031030casv02.htm](#) **RIO SALADO MASTER PLAN (0112-07-03)**

B. Award of Bids

30. Awarded **Contract #2003-181**, a construction contract to Tri-West Development, L.L.C.,

in an amount not to exceed \$81,856.00 (Base Bid plus Alternate No. 1), and a contingency allowance of \$16,400.00 for the remodeling of the Pyle Adult Recreation Center kitchen and reception area. Also awarded **Contract #2003-182**, a construction administration contract to Metropolis Design Group for an amount not to exceed \$3,000.00 and a materials testing contract to Ricker Atkinson McBee for an amount not to exceed \$250.00.

DOCUMENT NAME: [20031030PWMG01.htm](#) **PLYLE ADULT RECREATION CENTER (0902-17) PROJECT NO. 6300361**

C. Ordinances and Items for Introduction

31. Public hearings were set for **November 6 and November 13, 2003**, for the City of Tempe General Plan 2030, requesting public input on the goals and objectives of the elements of this plan.

COMMENTS: #GEP-2003.79 Resolution 2003.62. General Plan 2030 includes an introduction of Tempe's values and vision, a historic timeline respective of the culture and heritage of the community, a regional context analysis and demographic and statistical summary.

DOCUMENT NAME: [20031030dsdk03.htm](#) **GENERAL PLAN (0401-03)**

32. Public hearings were set for **November 13 and December 4, 2003**, to annex a remnant parcel of land owned by the City of Tempe south of State Route 202 approximately midway between Rural and Miller Roads.

COMMENTS: This parcel of land is located in an unincorporated portion of the city of Tempe. The parcel was acquired from the Arizona Department of Transportation. This annexation is one of the first steps in the process of creating an improvement district for the Playa del Norte/Miller Road area. In accordance with Arizona Revised Statute 9-471, a public hearing was held before the City Council on October 2, 2003 and Council unanimously voted to proceed with the annexation.

DOCUMENT NAME: [20031030PWMG03.pdf](#) **ANNEXATION (0402-01)**
Ordinance No. 2003.28

33. Public hearings were set for **November 13 and December 4, 2003**, to abandon an easement for ingress and egress located at 1001 East Lemon Street.

DOCUMENT NAME: [20031030PWMG04.pdf](#) **EASEMENT ABANDONMENT (0904-02)** Ordinance No. 2003.33

34. **DELETED**

D. Ordinances and Items for First Hearing – These items will have two public hearings before final Council action.

- q-j*35. Held the **first** public hearing for Tailgate Bar and Grill for a use permit, change of

ownership and transfer of liquor license at 930 West Broadway Road.

COMMENTS: (Crux Development, Dennis Corderman, property owner, Wayne LeJambre, business Owner) #SGF-2003.82 for a use permit to allow live entertainment with outdoor dining, amending condition number 1, SGF2003.12 allowing the change of ownership.

Previous Condition #1

The use permit is for the current owners of Tailgate Sports Bar and Grill (Hillacey Inc. Katherine and Donald Brodeur) only. Should the business be transferred, the new owner must reprocess to the Council for separate approval.

DOCUMENT NAME: [20031030dsd2k02.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *36. Held the **first** public hearing to authorize the Mayor to execute an Agreement for Conveyance and Leaseback of Improvements and Improvements Lease with Chamberlain Development, LLC (Wells Fargo).

DOCUMENT NAME: [20031030casv01.htm](#) **WELLS FARGO HOME MORTGAGE (0403-05-08)** Ordinance No. 2003.34

- *37. Held the **first** public hearing for the lease of two City-owned parcels at 939 and 945 E. 8th Street to Trailer Park Restaurants, Inc.

DOCUMENT NAME: [20031030dsnc02.pdf](#) **REAL PROPERTY DISPOSITION (0902-21-01)** Ordinance No. 2003.31

- *38. Held the **first** public hearing to authorize a lease with Hot Diggity's Mobile Food Vendors for pushcart vending at the southwest corner of Mill Avenue and 5th Street.

DOCUMENT NAME: [20031030PWMG02.pdf](#) **REAL PROPERTY/RIGHT OF WAY LEASE (TO OTHERS) (0903)** Ordinance No. 2003.35

E. Ordinances and Items for Second Hearing/Final Adoption

- *39. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION***

Held the **second** public hearing and amended Chapter 5, Article III, relating to Large Parties, Gatherings or Events, by amending Sections 5-31, 5-32, 5-33 and 5-34.

STAFF PRESENTATION:

Maryanne Corder provided a brief overview of the Ordinance. This Ordinance has been in effect since 1994 and the revisions now before Council have been worked on since 2001. The was brought forward by Tempe residents. In August, 2001, the Police Department noted that party calls were consuming a considerable amount of officers' time and that the number of calls were being held until a unit was able to respond. Based on this, an informational party pamphlet which was printed and distributed and the Party Patrol reinforced the issuance of public service fees and several media releases were done. In January 2003, this issue was brought to the newly formed Neighborhood Enhancement and People Improvement Program Committee. Grant funds were arranged for officers to work overtime in the Fall of 2003. From April 2 through May 28, 2003, Crime-Free

Multi-Housing sent eleven letters to property owners who had repeat parties at their premises and four of the eleven were landlords. The proposal was then made to the Council committee to change the Ordinance from 12 hours to 90 days and to include notification of landlords as property owners. As of October 24, staff has had eight emails, four letters, six phone calls supporting this change, two phone calls expressing concerns.

Commander Angel Carbajal provided statistics regarding PD's response to party calls. For 2003 year-to-date, there have been 2,872 party calls. Of those 2,872 calls, 1,470 (51%) were issued a party notice under the current ordinance. Of that 1,470, there were 964 between January and the end of July. From August to date, there have been 506 calls and a party warning notice was issued. Just a rough projection, if we had had the proposed ordinance in place during this time frame, then approximately 161 people would have been fined. The party calls accounted for 6 percent of all the calls for service the police received. For the 2,872 party calls this year-to-date, using a conservative number of twenty minutes to actually service the call, equals 1,915 staff hours, year-to-date. Collateral issues involve fights, damaged property and traffic issues.

Assistant City Attorney Andrew Ching stated that the fee that is assessed is supposed to reflect the resource allocation to that type of call. Concerning the joint liability of the property owner and the persons responsible at the party, this is something that was already in the definition of responsible person in the original code in existence since 1994. The change clarifies that a person can be jointly responsible whether or not that person directly benefited from the services. Another change includes an appeals process so that if someone who has received this assessment and wants an opportunity to grieve it through our administrative process, it would occur. Lack of notice on the part of property owners or to reflect their attempts as the property owner to correct whatever issues can be asserted as defenses and if they do, then the City has the discretion to waive that fee if it is clear that either they didn't know or they are taking positive steps to control the problem.

Councilmember Cahill asked if there are other communities in Arizona with similar ordinances.

Mr. Ching responded that the City of Tucson has a similar ordinance. The amendments to the definition of large party were taken in part from the Tucson ordinance to clarify concerns regarding the neighbor who may have ulterior motives or is hypersensitive. It allows the officer at the scene to determine whether or not what's going on there is "substantial disturbance" of the quiet enjoyment of the private or public property. It enumerates excessive noise, traffic obstruction, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, and litter. With these additional criteria, the officers would have the opportunity to discern between what may be a hypersensitive situation and a situation which clearly calls for action. Additionally, Tucson has 120-day timeframe and they physically place a sign on the effected properties during that 120 days with the removal of the sign constituting a criminal offense. We did not choose to follow this route and tried to find a compromise.

Councilmember Arredondo asked why the number 5 was chosen as the number of people required to invoke this ordinance. If we are focusing on noise, why did we choose five?

Mr. Ching responded that the number has been in place since 1994. To the best of his knowledge, that number was selected because it reflected what was believed to be the average size of a household. This ordinance is aimed at a "large" party. If there is a situation where it is not a large gathering, but is still disturbing to neighbors,

it could be addressed under current State law provisions of disorderly conduct, for instance. If someone is disturbing the peace by themselves, there would be other potential mechanisms for law enforcement action.

Councilmember Arredondo asked for an explanation on Section 3.D. concerning the City waiving part or all of the police service fees. Section 3.E. says the City does not waive its right to seek reimbursement for costs. Aren't those two contradictory?

Mr. Ching responded that the intent of 3.D. regards notice to property owners or others who may not be at the actual party and it can be waived based on those types of defenses being brought forward as part of the appeals process. Section 3.E. concerns the City not waiving its right to seek reimbursement for costs resulting from further collection action. Under the current ordinance, this is all done administratively through the Police Department. They try to follow up to remind the persons who have been assessed through letters and calls that they owe the money. At some point, if people ignore that, then we would have to potentially take them to court on a collections action. As amended, this would say that the City reserves the right to do that sort of action.

Councilmember Goronkin asked if there is anything in Arizona law that precludes a property owner from writing into their lease with a renter that violation of this type of ordinance constitutes a violation of the lease itself, that they can impose additional fines, or that it is an evictable offense.

Mr. Ching responded that there is a provision in the Landlord Tenant Law that speaks to a potential violation of the quiet enjoyment of the neighborhood as being potential grounds for breach of a lease. How and whether landlords would use whatever we are doing here as another grounds for writing in specific terms in their leases, is not something he cannot speak to. The intent of this wasn't to make it so that we would inject ourselves into the private contractual relationship between a landlord and a tenant. It was simply to make the current ordinance more effective in responding to loud party issues.

Mayor Giuliano clarified that in the Residential Landlord Tenant Act, Arizona Revised Statutes, Title 33, Chapter 10 updated as of August 22, 2003, Article III, subsection 33, the tenant will maintain a dwelling unit. The tenant shall conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbor's peaceful enjoyment of their premises. Whether that's enforceable or not is another issue.

City Attorney Marlene Pontrelli stated that if the landlord has done everything he can, including using the Arizona Statute, and goes to the Court and says he would like to evict the tenant based upon the disturbance of the quiet enjoyment of the property, whether he would be able to evict depends on how the Court rules on the particular circumstances. That also could be grounds that we would use to waive any fee that is assessed against the landlord because the landlord has done everything he can to comply with the ordinance. That would be our primary consideration. We are going to try to protect as much as possible, which is why we have the waiver in here.

Councilmember Copple asked for clarification on the applicability of this ordinance to owner/occupant property, as well as the landlord/tenant.

Mr. Ching responded that the definition of responsible persons specifies the person who owns the property

where a large party gathering or event takes place. Over half of those we tracked during the time we were sending out sample letters to property owners were, in fact, occurring at owner/occupied residences. It goes on to include the person in charge of the premises, the person who organized the party.

PUBLIC HEARING:

- Thomas Reed, 1031 E. Lemon, Tempe. ASU Students have concerns with the 90 days in the new ordinance and what constitutes the level of noise. He is opposed to the ordinance.
- Dee Haber, 628 E. Manhattan, Tempe. She supports the ordinance. It keeps the integrity of the neighborhoods.
- Kevin Bondelli, 528 W. 17th Place, Tempe, representing the ASU student government. He distributed a bill passed by Student Senate opposing the ordinance. He understands the need to create quiet neighborhoods, but the timeframe should be one to two weeks, rather than 90 days. The 90 days will have a hard effect on the relationship between ASU students and City Council.
- Russ Perry, 1642 E. Baker, Tempe. He opposes the ordinance. The ordinance says students aren't welcome here.
- Deven Fellows, 1216 E. Vista del Cerro, Tempe. He opposes the ordinance. The 90-day period is excessive.
- Bruce Quarmer, 235 E. 15th Street, Tempe. He is a landlord and owns seven single-family homes. He is worried about the landlord liability. He includes a clause in his leases that if there a public nuisance is grounds for eviction. It is tough, however, to evict someone for reasons other than nonpayment of rent. This ordinance could be a tool for an unreasonable neighbor.
- Tim Ogney, 1108 W. Pebble Beach, Tempe. Students don't have a right to party, they have a responsibility to be better neighbors. The ordinance seems to specifically target college students and is too harsh on landlords.
- John Ducharm, 1407 E. Laguna, Tempe. He supports the ordinance. People need to be responsible neighbors.
- Sara Minch and Courtney Delzanto, 1002 W. Laird, Tempe. College students are not guests, but are residents of the City. The ordinance targets ASU students and they are opposed to the ordinance.
- Robert Paulus, 2832 S. Elm, Tempe. Not all students are partiers. He asked Council to consider reduction of the 90 days. He apologized to residents who have been wronged by the parties.
- Maureen McDonald, 1598 W. 5th Street, Tempe. She is a landlord and supports the ordinance. This ordinance has nothing to do with whether someone is a student or not, but whether they are reasonable and responsible.
- Brant Early, 1946 E. Wesleyan, Tempe. He is a homeowner and feels this ordinance will result in fewer rentals. He opposes the ordinance.
- Greg Ellison, 49 E. 15th Street, Tempe. He had questions regarding the specifics of ordinance and felt some of it was too vague. He read a letter that he just received from student neighbors announcing a huge upcoming Halloween party.
- Zach Atters, 15 E. 7th Street, Tempe. He has had a lot of parties and he always notifies his neighbors before the party and asks them to call if they have any problems. He hasn't had any problems.
- Joanne Emelock, 1050 W. Laird Street, Tempe. She supports the ordinance. People are entitled to quiet enjoyment of the property. No one is unfairly singled out by the ordinance.
- Joshua Butler, 1108 W. Pebble Beach, Tempe. He is an ASU student and a homeowner. If he is having a

- party, all of his neighbors are invited. The ordinance singles out students and he is opposed to it.
- Matthew Mullering, 1717 S. Dorsey, Tempe. He is an ASU student and a licensed real estate agent. Passing the ordinance could cause student renters to go to other cities. He opposes the ordinance.
 - Michael Clement, 1100 S. Wilson, Tempe. He is a homeowner and is opposed to the ordinance. The current ordinance is abused by disgruntled neighbors. We have laws now that will handle the situation.
 - Ruben Alonzo, 1120 E. Bishop, Tempe. We need more ASU student representation on the Neighborhood Advisory Commission. We should encourage communication between neighbors. There should be more residence halls at ASU. He opposes the ordinance.
 - Phil Amorosi, 1432 E. Cedar, Tempe. He is president of the Hudson Manor Neighborhood Association. His neighborhood supports the ordinance.
 - Ed Hermes, 1500 E. Broadway, Tempe. This may not be targeting ASU students, but that's who it will affect. He opposes the ordinance. The \$1000 fine is too much.
 - Anthony Rubalcava, 1317 E. Orange, Tempe. He supports the ordinance. This is about living in a community. These parties terrorize the neighborhoods. He has tried to work with the party people, but it doesn't work. There is no respect for the neighborhoods and it's been going on too long.
 - Zig Popko, 1820 N. Palm Drive, Tempe. He feels the 90-day limit is reasonable. It is not targeting students, but in his experience, it happens that the party houses were student party houses. He supports the ordinance.
 - Dan Frank, 2624 S. Bonarden, Tempe. Most students are here to study, but some are here to continuously party. The parties are extreme. He supports the ordinance and feels it is in the best interest of homeowners.
 - Bill Butler, 1227 W. 4th Street, Tempe. He supports the ordinance. This is about responsibility. Those holding these parties show no respect for others or themselves. We deserve peaceful enjoyment of our property.
 - Paul DiMaggio, 1555 N. Rochester Circle, Tempe. Personal responsibility should not be legislated. Use neighborhood-based approach to solve this problem. He opposes the ordinance.
 - Liz Alesi, 608 E. Broadway, Tempe. There has been a chronic problem on her street with rentals. The money penalty is the only thing that will work. These parties are out of control. She supports the ordinance.
 - Lisa Mode, 109 E. Minton, Tempe. She supports the ordinance. The larger issue is the huge parties with hundreds of people in attendance and admission charges. This is causing great stress in the neighborhoods.

Councilmember Cahill **Councilmember Cahill** read into the record a letter from the Evergreen Neighborhood Association in support of the ordinance. If we had perfect responsibility, then we wouldn't even be having this hearing. Tempe is an All-America City because of all of the components that make up this city, including the students at ASU. ASU is an integral part of our community.

Councilmember Mitchell stated that this ordinance applies to all single-family residential properties. It doesn't single out whether it is a rental or owner-occupied. Neighborhoods are the cornerstone of our community. We have a responsibility to maintain the quality of life.

Councilmember Arredondo thanked the students who spoke. It is an important part of the process. There

are two senior level ASU administrators present and he was sure the message will be taken back to the President that the issues are shared issues with ASU and the City and they revolve around housing. This has been a two-year public input process and it's about neighborhoods and citizens. The police have other things to do and servicing calls for parties takes them away. He supports this ordinance to protect our neighborhoods.

Councilmember Copple stated that the ordinance is not directed at students, but at the people who fail to behave like reasonable adults. He appreciated that the ASU senior administration representatives are here today for the hearing. He would prefer that ASU act as the parents rather than forcing that role on our Police Department. Each citizen expects to live comfortably and happily and free of offensive behavior by our neighbors. He supports the ordinance.

Mayor Giuliano thanked all who have participated over the last three and a half years in this process. There will always be students living in this University community. He welcomes student participation on the Neighborhood Advisory Commission and other boards and commissions, but it is difficult to get students to apply and make that kind of commitment. The purpose for this ordinance is to address a growing problem. We can't afford not to address this issue. The number of service calls is too high and it costs too much. We must get a handle on this excessive situation.

Motion by Councilmember Cahill for approval of Item #39. Second by Councilmember Arredondo. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20031030cacc01.htm](#) TCC CH 5 – AMUSEMENTS
(0503-05) Ordinance No. 2003.29

- q-j *40. Held the **second** public hearing and approved an Amended General and Final Plan of Development for Bank of America for an office/bank building remodel and an Amended Subdivision Plat located at 906 East Baseline Road, with the following conditions.
1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
 - b. Off-site improvements to bring roadways to current standards include:
 - (5) Water lines and fire hydrants
 - (6) Sewer lines
 - (7) Storm drains
 - (8) Roadway improvements including streetlights, curb, gutter, bike path, sidewalk, bus shelter, and related amenities.
 - c. Fees to be paid with the development of this project include:
 - (4) Water and sewer development fees
 - (5) Water and/or sewer participation charges
 - (6) Inspection and testing fees
 - d. All applicable off-site plans shall be approved prior to recordation of Final

Subdivision Plat.

2. a. All street dedications shall be made within six (6) months of Council approval.
- b. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
- c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
3. No variances may be created by future property lines without the prior approval of the City of Tempe.
4. A valid building permit shall be obtained and substantial construction commenced within one year of the date of Council approval or the variance shall be deemed null and void.
5. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
6. The Amended General and Final Plan of Development and Amended Subdivision Plat shall be recorded prior to the issuance of permits, and shall show cross access to be maintained throughout this site over the driving aisles. No changes or modifications to the driving aisles will be allowed without the prior approval of the Engineering Department.
7. The Amended General and Final Plan of Development and Amended Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before October 30, 2004**. Failure to record the plan within one year of Council approval shall make the plan null and void.

COMMENTS: (Bank of America, property owner) **#SGF-2003.45** for an Amended General and Final Plan of Development for a 6,500 s.f. office/bank building remodel and parking lot improvements and **#SBD-2003. 81** for an Amended Subdivision Plat all on 1.49 net acres, located at 906 East Baseline Road, including the following:

Variance:

1. Reduce the minimum required building setback from 60' to 38', along the north property line to allow a new Automated Teller Machine (ATM) canopy, in the PCC-2 Planned General Commercial Center.

DOCUMENT NAME: [20031030dsd2k01.pdf](#) **PLANNED DEVELOPMENT (0406)**

F. Resolutions

41. Approved a Resolution amending the schedule of fees and charges authorized by the City Code and Ordinances by moving the fee for police services for special security assignments from Tempe City Code, Section 5-33 to the Appendix.

DOCUMENT NAME: [20031030cacc02.htm](#) MISCELLANEOUS FEES (0210-05) Resolution No. 2003.70

6. **NON-CONSENT AGENDA** – There were no items on the Non-Consent Agenda.
7. **CURRENT EVENTS/COUNCIL ANNOUNCEMENTS**
 - Councilmember Arredondo thanked the Tempe Firefighters serving in California.
8. **PUBLIC APPEARANCES**

SCHEDULED PUBLIC APPEARANCE

- *Richard Conti, 2410 S. Evergreen Rd. re: transients on the street*
He thanked Chief Tranter for his help responding. The transient situation in the street is a direct affront to our quality of life. He lives near Price and Broadway and stated that the transients camp out at the 101. He has had several personal confrontations. It's impossible to walk in the area without dealing with these people. Tempe's image suffers because of these folks living and begging on the street. We should not wait until a tragedy occurs. He asked Council to look at this issue.

MEETING ADJOURNED AT 9:50 p.m.

Mayor

ATTEST:

Kathy L. Matz
City Clerk

I, Kathy L. Matz, the duly appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular Council meeting of October 30, 2003, by the Tempe City Council, Tempe, Arizona.

Dated this _____ day of _____, 2003

Kathy L. Matz
City Clerk